

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SHAUN E. LEACHMAN,)	
)	
Movant,)	
)	
v.)	No. 4:16-CV-146 (CEJ)
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on the motion and amended motion of Shaun E. Leachman to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255. The United States has filed a response.

After pleading guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1), movant was sentenced under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), to a 120-month term of imprisonment.¹ His status as an armed career criminal was premised on his three prior Missouri felony convictions for burglary second degree of an inhabitable structure, assault first degree of a law enforcement officer, and resisting arrest by creating a substantial risk of serious physical injury to others.

In its response to the motion to vacate, the United States concedes that movant's burglary second degree conviction is no longer a predicate offense that may be used to enhance a sentence under the ACCA. See *Johnson v. United States*, 135 S.Ct. 2551 (2015); *Mathis v. United States*, 136 S.Ct. 2243 (2016); *Henderson v. United States*, 2016 WL 4967898 at *6 (W.D. Mo. 2016). Thus, movant does not

¹ The sentence represented a downward departure from the guideline imprisonment range of 188-235 months.

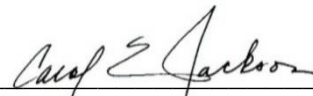
have the requisite number of predicate felony convictions to qualify him as an armed career criminal. Because movant is entitled to relief under *Johnson* and *Mathis*, the judgment entered in the criminal case will be vacated, and movant will be re-sentenced without application of the ACCA.

Accordingly,

IT IS HEREBY ORDERED that the motion and amended motion of Shaun E. Leachman to vacate, set aside, or correct sentence [Doc. # 1 and # 13] are **granted**.

IT IS FURTHER ORDERED that a copy of this Memorandum and Order shall be filed in the underlying criminal case, United States v. Shaun E. Leachman, No. 4:09-CR-705 (CEJ).

An order vacating the judgment will be entered separately.

A handwritten signature in cursive script, appearing to read "Carol E. Jackson", is written over a horizontal line.

CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of March, 2017.